

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application

Inventor(s): Zucherman, et al.

SC/Serial No.: Unknown

Confirm. No.: Unknown

Filed: Herewith

Title: SUPPLEMENTAL SPINE FIXATION DEVICE  
AND METHODS

PATENT APPLICATION

Customer No. 23910

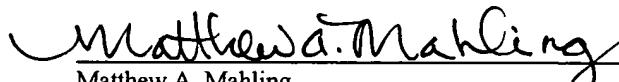
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 \_\_\_\_\_ (Signature)

Matthew A. Mahling

Signature Date: April 26, 2001

**INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. §1.56**

Commissioner for Patents  
Washington, DC 20231

Sir:

It is requested that the information identified in this statement be considered by the Examiner and made of record in the above-identified application. This statement is not intended to represent that a search has been made or that the information cited in the statement is, or is considered to be, material to patentability as defined in 37 C.F.R. §1.56. If this is a continuation, divisional or continuation-in-part application, it is understood that the Examiner will consider all information which was considered by the Office in a parent application. MPEP §609. Such information therefore is not listed herein unless it is desired that the information be printed on a patent issuing from the subject application.

***Enclosed with this statement are the following:***

- Copies of all listed references are enclosed.
- Form PTO-1449. The Examiner is requested to initial the form and return it to the undersigned in accordance with M.P.E.P. §609.
- A copy of each cited document as required by 37 C.F.R. §1.98 unless stated otherwise above. Copies are not submitted of documents previously submitted by the applicant in a parent application from which benefit under 35 U.S.C. §120 is claimed, 37 C.F.R. §1.98(d)(1), with an information disclosure statement submitted in the parent application which complies with the Sept. 8, 2000 or subsequent revision of 37 C.F.R. §1.98(a-c). If any of the cited/submitted documents is in a foreign

language, a concise explanation of relevance is provided pursuant to 37 C.F.R. §1.98(a)(3)(i). For foreign language documents cited in a search report by a foreign patent office, the requirement for a concise explanation of relevance is satisfied by the submission herewith of an English language version of the search report. MPEP §609A(3). If a written English-language translation of a non-English language document, or portion thereof, is within the possession, custody or control of, or is readily available to any individual designated in §1.56(c), a copy of the translation accompanies this statement, 37 C.F.R. §1.98(a)(3)(ii), and satisfies the requirement for a concise explanation of relevance, MPEP §609A(3).

*This statement should be considered because:*

**37 C.F.R. §1.97(b).** This statement qualifies under 37 C.F.R. §1.97, subsection (b) because:

- (1) It is being filed within three months of the filing date of an application other than a continued prosecution application under § 1.53(d);  
-- OR --
- (2) It is being filed within 3 months of entry of a national stage;  
-- OR --
- (3) It is being filed before the mailing date of the first Office Action on the merits,  
-- OR --
- (4) It is being filed before the mailing date of the first Office Action after the filing of a Request for Continued Examination under 37 C.F.R. §1.114.

**37 C.F.R. §1.97(c).** Although it may not qualify under subsection (b), this statement qualifies under 37 C.F.R. §1.97, subsection (c) because:

- (1) It is being filed before the mailing date of a FINAL office action, a Notice of Allowance, or an action that otherwise closes prosecution in the subject application, whichever occurs first.

-- AND (*check at least one of the following*) --

(1) It is accompanied by a STATEMENT as set forth in 37 C.F.R. §1.97(e).  
-- OR --

(2) It is accompanied by the \$180 fee set forth in 37 C.F.R. §1.17(p).

**37 C.F.R. §1.97(d).** Although it may not qualify under subsection (b) or (c), this statement qualifies under 37 C.F.R. §1.97, subsection (d) because:

- (1) It is being filed on or before payment of the issue fee;  
-- AND --
- (2) It is accompanied by a STATEMENT as set forth in 37 C.F.R. §1.97(e);  
-- AND --
- (3) It is accompanied by the \$180 fee set forth in 37 C.F.R. §1.17(p).

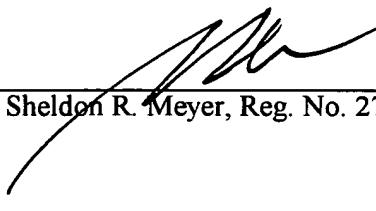
**PTA Statement under 37 C.F.R. §704(d).** Each item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in §1.56(c) more than thirty days prior to the filing of the information disclosure statement.

**Fee Authorization.** The Commissioner is hereby authorized to charge underpayment of any additional fees or credit any overpayment associated with this communication to Deposit Account No. 06-1325. A duplicate copy of this authorization is enclosed.

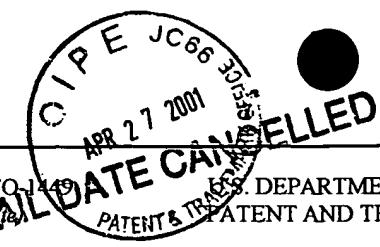
Respectfully submitted,

FLIESLER, DUBB, MEYER & LOVEJOY LLP

Date: April 26, 2001

By: 

Sheldon R. Meyer, Reg. No. 27,660



Form PTO-140 (Substitute) PATENT & TRADEMARK OFFICE DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE				Attorney Docket Number <b>KLYC1033US4 SRM</b>	Serial/Patent Number <b>Unknown</b>		
<b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b> <i>(Use several sheets if necessary)</i>				Applicant/Patent Owner <b>Zucherman, et al.</b>			
				Filing/Issue Date <b>Herewith</b>	Group Art Unit		
<b>U.S. PATENTS</b>							
Examiner Initial		Patent Number	Issue Date	Inventor	Class	Subclass	Filing Date
	1.	2,677,369	05/04/54	Knowles			
	2.	3,426,364	02/11/69	Lumb			
	3.	3,648,691	03/14/72	Lumb et al.			
	4.	3,867,728	02/25/75	Stubstad et al.			
	5.	3,875,595	04/08/75	Froning			
	6.	4,309,777	01/12/82	Patil			
	7.	4,349,921	09/21/82	Kuntz			
	8.	4,369,769	01/25/83	Edwards			
	9.	4,401,112	08/30/83	Rezaian			
	10.	4,479,491	10/30/84	Martin			
	11.	4,553,273	11/19/85	Wu			
	12.	4,554,914	11/26/85	Kapp et al.			
	13.	4,604,995	08/12/86	Stephens et al.			
	14.	4,636,217	01/13/87	Ogilvie et al.			
	15.	4,643,178	02/17/87	Nastari et al.			
	16.	4,657,550	04/14/87	Daher			
	17.	4,685,447	08/11/87	Iversen et al.			
	18.	4,696,290	09/29/87	Steffee			
	19.	4,714,469	12/22/87	Kenna			
	20.	4,743,256	05/10/88	Brantigan			
	21.	4,772,287	09/20/88	Ray et al.			
	22.	4,904,260	02/27/90	Ray et al.			
	23.	4,904,261	02/27/90	Dove et al.			

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Examiner Initial	Patent Number	Issue Date	Inventor	Class	Subclass	Filing Date
24.	4,913,134	04/03/90	Luque			
25.	4,932,975	06/12/90	Main et al.			
26.	4,936,848	06/26/90	Bagby			
27.	4,961,740	10/09/90	Ray et al.			
28.	4,969,888	11/13/90	Scholten et al.			
29.	5,011,484	04/30/91	Breard			
30.	5,015,247	05/14/91	Michelson			
31.	5,026,373	06/25/91	Ray et al.			
32.	5,035,716	07/30/91	Downey			
33.	5,047,055	09/10/91	Bao et al.			
34.	5,055,104	10/08/91	Ray			
35.	5,059,193	10/22/91	Kuslich			
36.	5,059,194	10/22/91	Michelson			
37.	5,084,049	01/28/92	Asher et al.			
38.	5,092,866	03/03/92	Breard et al.			
39.	5,180,381	01/19/93	Aust et al.			
40.	5,192,327	03/09/93	Brantigan			
41.	5,258,031	11/02/93	Salib et al.			
42.	5,263,953	11/23/93	Bagby			
43.	5,290,312	03/01/94	Kojimoto et al.			
44.	5,304,178	04/19/94	Stahurski			
45.	5,387,213	02/07/95	Breard et al.			
46.	5,395,372	03/07/95	Holt et al.			
47.	5,415,661	05/16/95	Holmes			
48.	5,458,638	10/17/95	Kuslich et al.			
49.	5,458,641	10/17/95	Ramirez Jimenez			
50.	5,470,333	11/28/95	Ray			



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Examiner Initial	Patent Number	Issue Date	Inventor	Class	Subclass	Filing Date
51.	5,496,318	03/05/96	Howland et al.			
52.	5,514,180	05/07/96	Heggeness et al.			
53.	5,534,028	07/09/96	Bao et al.			
54.	5,534,029	07/09/96	Shima			
55.	5,540,689	07/30/96	Sanders et al.			
56.	5,549,679	08/27/96	Kuslich			
57.	5,562,736	10/08/96	Ray et al.			
58.	5,593,409	01/14/97	Michelson			
59.	5,609,634	03/11/97	Voydeville			
60.	5,645,597	07/08/97	Krapiva			
61.	5,645,599	07/08/97	Samani			
62.	5,674,295	10/07/97	Ray et al.			
63.	5,702,455	12/30/97	Saggar			
64.	5,725,582	03/10/98	Bevan et al.			
65.	5,824,098	10/20/98	Stein			
66.	5,865,846	02/02/99	Bryan et al.			
67.	5,976,186	11/02/99	Bao et al.			
68.	6,022,376	02/08/00	Assell et al.			

PENDING U.S. PATENT APPLICATIONS

Examiner Initial		Application Number	Filing Date	Inventor	Petition to Expunge? Yes   No

FOREIGN PATENT DOCUMENTS

Examiner Initial		Document Number	Publication Date	Country	Class	Subclass	Trans-lation Yes   No
69.		DE 31 13 142 A1	14.01.82	Germany			✓
70.		DE 2821 678 A1	22.11.79	Germany			✓



## FOREIGN PATENT DOCUMENTS

Examiner Initial	Document Number	Publication Date	Country	Class	Subclass	Trans-lation Yes <input type="checkbox"/> No <input type="checkbox"/>
71.	EP 322334 A1	28.06.89	EPO			✓
72.	EP 146347 A2	26.06.85	EPO			✓
73.	EP 140790 A2	08.05.85	EPO			✓
74.	FR 2 681 525 A1	26.03.93	France			✓
75.	SU 1484348 A1	07.06.89	Soviet Union			✓
76.	WO 91/16018	31.10.91	PCT			✓
77.	WO 90/00037	11.01.90	PCT			✓
78.	2,015,507	1991/01/06	Canada			✓

\* English Abstract attached

## OTHER DOCUMENTS (Include author (if any), title, publisher and place of publication, date and pertinent pages)

79.	Minns, R.J., et al., <i>Preliminary Design and Experimental Studies of a Novel Soft Implant for Correcting Sagittal Plane Instability in the Lumbar Spine</i> , SPINE Volume 22, Number 16, pp.1819-1825, © 1997, Lippincott-Raven Publishers
80.	Waldemar Link, brochure entitled <i>Wirbelsäulen-Chirurgie: Instrumentarium Und Implantate Zur Wirbelsäulen-Chirurgie</i> (Spinal Surgery: Instrumentation and Implants for Spinal Surgery), Waldemar Link, Hamburg, Germany

Examiner	Date Considered
*EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.	

\*1 = Copy not submitted because it was submitted in prior application SN /, filed       , 20      , relied on under 35 USC §120.  
 \*2 = Copy not submitted because it was submitted in prior application SN /, filed       , 20      , relied on under 35 USC §120.